



TENNESSEE

Real Estate Appraiser Report Real Estate Appraiser Commission Tennessee Department of Commerce & Insurance

Summer
Vol.12 No.5

2003



Chairman's Report

Lewis S. Pipkin

With Mortgage interest rates at near historical lows and recent improvement in the stock market, appraisal activity for the first half of 2003 has been strong. As I assume the duties of Chairman of the Tennessee Real Estate Commission, the outlook for the appraisal industry for the second half of 2003 is favorable. I appreciate the work of Commissioner Lou Bratton as Chairman during the past year and congratulate him on a job well done. Special thanks are also due Commissioners Dr. Reginald Peyton, Gary Standifer, and Daryl Nelkin as they complete their terms on the Commission. Commissioners Peyton and

Nelkin have served long and faithfully on the Education Committee, and Commissioner Standifer has provided valuable insight on complaints on commercial properties.

The Real Estate Appraiser Commission currently has about 75 outstanding complaints involving about 44 different appraisers. Approximately 13 or 14 formal hearings have been authorized by the Commission and are in process. Thanks to the efforts of Ms. Zane, the Commission's attorney, the Commission is making a concentrated effort to process and close all of the older outstanding complaints. There has been an increase in complaints submitted by secondary mortgage lenders typically resulting from a field review in which the appraised amount of the field review is substantially different from the original appraisal acquired by the mortgage lenders. In numerous cases, the proper selection of comparable sales

and the adjustments made to the comparable sales are questioned.

The Commission has received more than one complaint stating that the appraiser has spent less than 15 minutes doing the inspection of the property. This complaint has been made even though in one case the appraiser included in the appraisal interior photographs of each room in the house as well as a sketch and exterior photographs. The public perception of a professional depends in large part on the impression you create during inspection of the property. In my experience, a few minutes spent talking with the homeowner **while seated** is time well spent. Please take enough time during the inspection to create a feeling of trust in you as a professional with the homeowner.

The Commission is in the process of amending the rules and procedures of the

Commission. The proposed amendment to the rules was filed June 30, 2003 at the Davy Crockett Tower, Nashville, TN. Any appraiser with comments on the proposed amendments to the rules is urged to attend this hearing.

Some changes were made in the 2003 Uniform Standards of Professional Appraisal Practice. The following is a brief discussion of the pertinent proposed changes in the Appraiser Commission rules and in the changes in USPAP for 2003. The primary change in USPAP of which all appraisers should be aware is the modification of Standard Rule 1-5 which requires "in developing a real property appraisal, when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business: (a) analyze all agreements of sale, options, or listing of the subject property that occurred within the three (3) years prior to the effective date of the appraisal." This is a binding requirement from which departure is not permitted. To state the sale without any analysis or discussion does not meet USPAP standards. Omission of this information in the appraisal is generally considered by the Commission to be serious violation of standards.

A new Standard Rule 1-6 (also a binding requirement) has been added. This standard requires that in developing a real property appraisal, an appraiser must "(a) reconcile

the quality and quantity of data available and analyze within the approaches used; and, (b) reconcile the applicability or suitability of the approaches used to arrive at the value conclusions." This rule was added to demonstrate that reconciliation is a separate component of the appraisal process rather than a function within the analysis of sale history. These two changes are binding requirements and will affect most appraisal reports.

While many of the proposed amendments to the existing rules are to update, clarify, and make more concise the existing rules there are certain changes that will affect trainees or licensees. These changes are summarized as follows. (1) the number of hours of education required for a trainee will be increased from 45 to 75 hours. Education requirement includes the Uniform Standard-15 hours, Appraisal Principles -30 hours, and Approved Course in Practice and Procedures -30 hours. A registered trainee who remains in a classification as Trainee in excess of two years will be subject to the continuing education requirements prior to the second renewal as a trainee. The revised rules will permit the supervising appraiser a maximum of three registered trainees at one time. In addition to the present requirement that the supervising appraiser accompany the trainee on inspections up to 500 hours, the revised rules will also require that the supervising appraiser accompany the trainee on any assignment over 50 miles from

the supervising appraiser's office. The revised rules will allow a newly certified appraiser who has been licensed for a minimum of five years to also sponsor trainees.

The revised rules will include removing the existing requirement that all licensees take the USPAP 15 hour course and will revise the rule to comply with the present AQB requirement requiring the seven hour USPAP within each two-year renewal cycle. The law is unchanged in that each new applicant will be required to take USPAP 15 hour course.

The revised rules will reduce the experience credit for limited appraisals to one-half the normal hours allotted. The revised rules also provide that a maximum of 25% of total credits be obtained for limited appraisals. The revised rules will allow for disciplinary action for out of state licensees if such action is taken in the resident state of the licensee. The rules also provide provisions for credit for distant education.

I am honored to serve as Chairman of Tennessee Real Estate Appraiser Commission and will be happy to discuss any issue or attempt to answer any question that you may have concerning appraisal matters. I can speak only as one member of the Appraiser Commission and not for the Real Estate Appraiser Commission as a whole. I look forward to the opportunity of working with the new commissioners that will replace Commissioners Peyton, Standifer, and Nelkin.

Hopefully, this brief article will bring understanding to your concerns.

The current rule of the Tennessee Real Estate Appraiser Commission states that all licensees shall complete a 15 hour USPAP course every 5 years. The Commission recognizes that 2003 is a transition year in that AQB is requiring only a 7 hour USPAP course every 2 years beginning January 1, 2003, and not the 15 hour USPAP course every five years. Therefore, the Commission voted to have the following placed in the proposed rules: *If a Tennessee State Certified Real Estate Appraiser has already taken the 15 hour course in 2003, you will receive credit for the 7 hour USPAP course and the additional 8 hours will go toward your continuing education credits. In the event that you have taken the 7 hour USPAP course in 2003, then the Commission will grant you retroactive credit, meaning that the Commission will accept the completion of the 7 hour course as satisfying the current rule requirements.*

An Article by John A. Bullington, member, The Tennessee Real Estate Appraisal Commission with professional assistance from Andrew Easton and Ed Campbell

TENNESSEE REAL ESTATE APPRAISER COMMISSION CURRENT AND PROPOSED RULES

Many comments have been made and many questions have been asked in the recent past about the current rules.

Please note that the Commission only voted to have those statements placed in the proposed rules. They are not yet the final rules of the Commission. Please note that the current rules state that all licensees shall take a 15 hour USPAP course every five years. In voting on placing these statements in the proposed rules, the Commission is not approving, condoning, or encouraging the violation to their current rules.

During the past year questions have arisen concerning USPAP changes. This synopsis, taken in part from an interview with Mr. Danny Wiley, SRA, and current Chair of the Appraisal Standards Board of the Appraisal Foundation, should help:

1. Departure; taken from the 2003 USPAP Standards, Advisory Opinion:

A.) AO-12, Lines 12-14; Under Standards 1 and 7 of USPAP, an appraiser may develop either a complete appraisal performed without invoking the departure rule or a Limited Appraisal performed under and resulting from invoking the Departure Rule.

B.) AO-15, Lines 14-17: the Departure Rule distinguishes between the standards rules which are binding requirements and those that are specific requirements of USPAP. It discusses the circumstances under which an appraiser may agree to perform an assignment that calls for something less than or different from work that would otherwise be performed in the development of a complete appraisal.

C.) AO-15, Lines 30-33: Appraisers need to be familiar with the Departure Rule because it is powerful tool that allows the extent of an appraisal analysis or development to be varied as appropriate for the appraisal assignment. Appropriate use of the Departure Rule provides appraisers with an effective

means to compete in an increasingly competitive market.

D.) Departure is dependent upon whether or not an approach to value is necessary.

E.) Whether an appraisal is "complete" or "limited" is determined by the amount of analysis you do, not the format of the report.

F.) Emphasis needs to be on scope of work and simply stating what you did or did not do.

G.) Very possible within the next couple of years that the terms "complete" and "limited" will be eliminated.

H.) Perception that if you are appraising part of something that it must be limited and that if all three approaches are not done, then it is limited; or if they do not appraise the whole property, it is limited.

I.) Appraisal Standards Board actually sees people in violation of USPAP just by confusing terms.

J.) Not all 3 specific approaches are applicable to every assignment. If it is not applicable, then it becomes irrelevant and therefore no departure is needed.

K.) Cost Approach may not be applicable when dealing with a 15 year old single family residence or in the case of vacant land. The first question to ask is, is cost approach applicable? If it is not applicable then no departure and not limited.

L.) Departure not permitted from standards rules dealing with appraiser competency, ethics, identifying

the scope of work and other assignment criteria, consideration of the subject's current and past sales and reconciliation of the data and approaches used.

M.) Elimination of an approach to value constitutes departure only when that approach is applicable and is typically used in developing the value opinion.

N.) Departure rule can be a useful tool that enables appraisers to provide reliable, timely and cost efficient services.

O.) Departure Rule:
i.

APPRAISAL STANDARDS BOARDS USPAP Q&A

Question:

I recently received a request for an appraisal assignment. The potential client has indicated that there will be other intended users, but has not identified the intended users specifically. Is it acceptable to identify the intended users by type?

Response:

Yes. STATEMENT No. 9 states: *Neither the client nor the appraiser is obligated to identify an intended user by name. If identification by name is not appropriate or practical, an appraiser's client and **the appraiser may identify an intended user by type.*** (Bold added for emphasis)

Therefore, in this situation the appraiser should identify the type of intended users applicable to the assignment (e.g. wholesale loan purchasers).

Question:

In the 2002 edition of USPAP, STATEMENT 7 contained a "Clarification of Nomenclature" section that was very helpful. This is no longer in SMT-7. Was this text removed from the USPAP document?

Response:

The "Clarification of Nomenclature" section was relocated to Advisory Opinion 3, which deals directly with updating an appraisal.

Question:

My state appraisal board is asking me to send a copy of the workfile for an appraisal I performed eight years ago. Since no testimony was given in the assignment, I was only required to maintain access to the workfile for five years. Given that this time period has expired, can the state board still take action in this case?

Response:

Yes. The time frames referenced in the Record Keeping section of the ETHICS RULE are only the minimums. Nothing in USPAP would prevent an enforcement proceeding from taking place after the applicable time period has expired.

Question:

The terms "recertification of value" and "appraisal update" are often used interchangeably. Do they have the same meaning?

Response:

No, these terms do not have the same meaning. The terms "Update" and "Recertification of Value" are discussed in Advisory Opinion 3(AO-3). An "Update" is a new appraisal assignment involving a property that was previously appraised. A "Recertification of Value" is performed to confirm whether or not the conditions of a prior assignment have been met. One example of a "Recertification of Value" is a "Final Inspection." When an appraiser is asked to complete a "Final Inspection," the appraiser is confirming that conditions established in an assignment have, or have not, been met. "Final Inspections" are commonly used in the case of proposed construction where an appraisal is completed subject to completion per plans and specifications. See AO-3 for further advice on updates of a prior assignment.

Question:

In performing an appraisal to provide market value, must the appraiser analyze **past** listings and agreements of sale that existed for the subject property?

Response:

Standards Rule 1-5(a) states in part; *In developing a real property appraisal, when the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business: analyze all agreements of sale, options, or listings of the subject property **current as of***

the effective date of the appraisal...(Bold added for emphasis) However, Standards Rule 1-1(b), a binding requirement, states;...*an appraiser must not commit a substantial error of omission or commission that significantly affects an appraisal; The Comment goes on to state; In performing appraisal services, an appraiser must be certain that the gathering of factual information is conducted in a manner that is sufficiently diligent, given the scope of work as identified according to Standards Rule 1-2(f), to ensure that the data that would have material or significant effect on the resulting opinions or conclusions are identified and, where necessary, analyzed. Further, an appraiser must use sufficient care in analyzing such data to avoid errors that would significantly affect his or her opinions and conclusions.*

Therefore, while SR 1-5 does not require that all prior listings of the subject property or agreements of sale be analyzed, appraisers should take sufficient care to ensure they are not omitting information that would significantly affect the appraisal. Appraisers should also be aware that some entities have established Supplemental Standards requiring the analysis of prior listings in some appraisal assignments.

Question:

In addition to my job as an appraiser, I spend a significant amount of my professional time

as an instructor of appraisal courses and seminars. One of the prerequisites for my teaching position is that I must also be a practicing appraiser. Am I subject to USPAP when I am teaching appraisal courses?

Response:

Yes you are. Since you are acting in the role of an appraiser in these teaching assignments, you are engaged in "Appraisal Practice" which is defined in USPAP as; *Valuation services performed by an individual acting as an appraiser, including, **but not limited to**, appraisal, appraisal review, or appraisal consulting.* (Bold added for emphasis)

While USPAP does not include Standards Rules for teaching assignments, you must observe applicable requirements in the PREAMBLE, ETHICS RULE, COMPETENCY RULE, SUPPLEMENTAL STANDARDS RULE, and JURISDICTIONAL EXCEPTION RULE. See Advisory Opinion 21 (AO-21) for discussion of the application of USPAP in Valuation Services.

Question:

I recently received an assignment for an update of an appraisal. The original appraisal was reported on a commonly used single-family residential report form. Must I use this same form to report the results of the update assignment?

Response:

No. Using the same form as the original report is not required. The update is a new appraisal assignment, and it may be reported in any format that is acceptable for the intended use and complies with the applicable reporting Standard (Standard 2 for a real property assignment). The report must contain sufficient information to be meaningful and not misleading to the intended users, but it is not required to have the same level of detail as the original report. For additional information, refer to Advisory Opinion 3, Update of a Prior Assignment.

Question:

I was recently asked to complete a retrospective market value appraisal where the effective date of the appraisal is two years prior to the date of the report. In researching this assignment I discovered several comparable sales that were listed, placed under contract, and sold well after the effective date of the appraisal. Would it be appropriate to use **only** these sales in my sales comparison approach to value?

Response:

No. In a retrospective appraisal, the analysis should reflect the market conditions that existed on the effective date of the appraisal. Only using comparable sale information that was **not** available to the market place, or did not exist as of the effective date of the appraisal would be

misleading because it would not reflect information available to the marketplace during that time period.

Consult SMT-3 for further discussion of retrospective appraisals.

Question:

I am currently working in an appraisal firm as a trainee. As part of my training I contribute significant real property appraisal assistance in appraisal assignments performed by other appraisers in the firm but I do not sign the appraisal report or the certification. I understand that my name must be stated in the certification. Must the certification include a description of my assistance?

Response:

A description of your assistance or contribution to the assignment is not required in the certification. However, in accordance with Standards Rule 2-2(a), (b), and (c) (vii), the extent of the assistance must be described, summarized or stated (depending on the reporting option used) within the report. This required disclosure could be included within the certification, but it could also be included in some other section of the report.



Disciplinary Actions

James Kite, CG-785
Knoxville, TN
Violations:
T.C.A. 62-39-329 USPAP

Consent Order:
Civil Penalty \$300.00

James P. Lee, LR1261
Madisonville, TN
Violations:
T.C.A. 62-39-104 USPAP
Consent Order
Civil Penalty – \$500.00

Knoxville

John Bullington, Vice Chairman
Johnson City

Luther Bratton, Appraiser Member
Portland

Daryl Nelkin,
Sevierville

Carnell Scruggs, Public Member
Brentwood

Douglas Blackburn, Appraiser Member
Franklin

Mark Johnstone, Appraiser Member
Jackson

Dr. Richard Evans, Educator Member
Germantown

Jerry Shelton, Appraiser Member
Atwood

Administrative Director

Joyce Branham
Administrative Assistant

Edith Johnson
Administrative Assistant

Dorris O'Brien
Licensing Technician

Commission Meeting Dates for 2003

May 12, 2003	Room 160
June 09, 2003	Room 160
July 14, 2003	Room 640
August 18, 2003	Room 160
September 8, 2003	Room 160
October 13, 2003	Room 640
November 10, 2003	Room 160
December 8, 2003	Room 160

Please note that all meeting dates are tentative and may be cancelled at any time. Unless otherwise noted, the Commission meetings are scheduled to be held at 500 James Robertson Parkway, Nashville, Tennessee. Meetings start at 9:00a.m. the public is invited to attend. Please call the Commission office to verify that the meeting will be held on the date scheduled.

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Sam Pipkin, Chairman

Staff Members

Sandra S. Moore

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